

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations)

§ 18550.1. Independent and Coordinated Expenditures.

(a) For purposes of Government Code section 85500(b), an expenditure is not considered independent, and shall be treated as a contribution from the person making the expenditure to the candidate on whose behalf, or for whose benefit, the expenditure is made, if the expenditure funds a communication that expressly advocates the nomination, election or defeat of a clearly identified candidate and is made under the following circumstances:

(1) The expenditure is made at the request, suggestion, or direction of, or in cooperation, consultation, concert or coordination with, the candidate on whose behalf, or for whose benefit, the expenditure is made, or

(2) The communication funded by the expenditure is created, produced, or disseminated,

(A) After the candidate has made or participated in making any decision regarding the content, timing, location, mode, intended audience, volume of distribution, or frequency of placement of the communication, or

(B) After discussion between the creator, producer or distributor of a communication, or the person paying for that communication, and the candidate, regarding the content, timing, location, mode, intended audience, volume of distribution or frequency of placement of that communication, the result of which is agreement on any of these topics.

As used throughout this regulation, the term "candidate" includes a candidate controlled committee and the agent of the candidate or controlled committee, when the agent acts within the course and scope of his or her agency.

(b) In addition to the rule provided in subdivision (a) of this regulation, there shall be a

presumption that an expenditure funding a communication that expressly advocates the nomination, election or defeat of a clearly identified candidate is not independent of the candidate on whose behalf, or for whose benefit, the expenditure is made, when

(1) It is based on information about the candidate's campaign needs or plans provided to the expending person by the candidate, or

(2) It is made by or through any agent of the candidate in the course of the agent's involvement in the current campaign, or

(3) The person making the expenditure retains the services of a person who provides the candidate with professional services related to campaign or fundraising strategy for that same election, or

(4) The communication replicates, reproduces, republishes or disseminates, in whole or in substantial part, a communication designed, produced, paid for or distributed by the candidate.

(c) Notwithstanding the foregoing, an expenditure shall not be considered a contribution to a candidate merely because:

(1) The person making the expenditure interviews the candidate on issues affecting the person making the expenditure, or

(2) The person making the expenditure has obtained a photograph, biography, position paper, press release, or similar material from the candidate, or

(3) The person making the expenditure has previously made a contribution to the candidate, or

(4) The person makes an expenditure in response to a general, non-specific request for support by a candidate, provided that there is no discussion with the candidate prior to the expenditure relating to details of the expenditure, or

(5) The person making the expenditure has invited the candidate to make an appearance before the person's members, employees, shareholders, or the families thereof, provided that there is no discussion with the candidate prior to the expenditure relating to details of the expenditure, or

(6) The person making the expenditure informs the candidate that the person has made an expenditure, provided that there is no other exchange of information, not otherwise available to the public, relating to details of the expenditure, or

(7) The expenditure is made at the request or suggestion of the candidate for the benefit of another candidate or committee.

Note: Authority cited: Section 83112, Government Code. Reference: Section 85500(b), Government Code.

HISTORY

1. New section filed 4-9-2003; operative 4-9-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 15).